

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Garfield	Team: Squad #16	CCRB Case #: 202208146	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/17/2022 2:50 PM	Location of Incident: 6th Avenue and 74th Street	18 Mo. SOL 5/17/2024	Precinct: 68		
Date/Time CV Reported Thu, 11/17/2022 5:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/28/2022 4:07 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Quratulain Chughtai	26706	964985	068 PCT
2. PO Leana Dieken	27127	965048	068 PCT
3. PO Joseph Power	16386	956180	INT FIO PRG

Officer(s)	Allegation	Investigator Recommendation
A . PO Leana Dieken	Abuse: Police Officer Leana Dieken stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B . PO Quratulain Chughtai	Abuse: Police Officer Quratulain Chughtai stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C . PO Leana Dieken	Discourtesy: Police Officer Leana Dieken spoke discourteously to § 87(2)(b)	
D . PO Joseph Power	Abuse: Police Officer Joseph Power threatened to arrest § 87(2)(b)	
E . PO Joseph Power	Discourtesy: Police Officer Joseph Power spoke discourteously to § 87(2)(b)	
F . PO Joseph Power	Force: Police Officer Joseph Power used physical force against § 87(2)(b)	
G . PO Joseph Power	Force: Police Officer Joseph Power hit § 87(2)(b) against an object.	
H . PO Joseph Power	Discourtesy: Police Officer Joseph Power acted discourteously toward § 87(2)(b)	
I . PO Joseph Power	Abuse: Police Officer Joseph Power stopped § 87(2)(b)	
J . PO Joseph Power	Discourtesy: Police Officer Joseph Power spoke discourteously to § 87(2)(b)	
K . PO Joseph Power	Abuse: Police Officer Joseph Power improperly used Police Officer Leana Dieken's body-worn camera.	
L . PO Joseph Power	Abuse: Police Officer Joseph Power threatened § 87(2)(b) with the use of force.	
M . PO Joseph Power	Abuse: Police Officer Joseph Power refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
N . PO Joseph Power	Abuse: Police Officer Joseph Power refused to provide his shield number to § 87(2)(b)	
O . PO Quratulain Chughtai	Abuse: Police Officer Quratulain Chughtai refused to provide her name to § 87(2)(b)	
P . PO Quratulain Chughtai	Abuse: Police Officer Quratulain Chughtai refused to provide her shield number to § 87(2)(b)	
Q . PO Joseph Power	Abuse: Police Officer Joseph Power failed to provide § 87(2)(b) with a business card.	
R . PO Joseph Power	Abuse: Police Officer Joseph Power improperly used his body-worn camera.	

## Case Summary

On November 17, 2022, § 87(2)(b) called IAB and filed the following complaint, generating original IAB log number § 87(2)(b). On November 28, 2022, IAB referred this complaint to the CCRB.

On November 17, 2022, at 2:50 p.m., PO Leana Dieken and PO Quratulain Chughtai, both of the 68<sup>th</sup> Precinct, stopped the vehicle § 87(2)(b) son, § 87(2)(b) was driving at the intersection of 6<sup>th</sup> Avenue and 74<sup>th</sup> Street in Brooklyn (**Allegations A, B: Abuse of Authority, § 87(2)(g)**

At one point, PO Dieken said to § 87(2)(b) “Okay, maybe you should lose the attitude and learn to speak like an adult” (**Allegation C: Discourtesy, § 87(2)(g)**

PO Dieken requested an officer to the scene with a window tint reader and PO Joseph Power, of Brooklyn Field Intelligence (who has since been promoted to Detective), responded to the scene. PO Power threatened to arrest § 87(2)(b) (**Allegation D: Abuse of Authority, § 87(2)(g)** PO Dieken allegedly said to § 87(2)(b) “Get back in the fucking car” (**Allegation E: Discourtesy, § 87(2)(g)**

§ 87(2)(b) alleged that PO Power grabbed him by the arm, pushed him inside of his vehicle, and slammed the car door on his arm in a discourteous manner (**Allegation F: Force, § 87(2)(g)** (**Allegation G: Force, § 87(2)(g)** (**Allegation H: Discourtesy, § 87(2)(g)**

PO Power then said to § 87(2)(b) “You are not free to leave and you are not free to get out of the car. Okay? Sit in the car and be a good boy” (**Allegation I: Abuse of Authority, § 87(2)(g)** (**Allegation J: Discourtesy, § 87(2)(g)** PO Power allegedly then turned off PO Dieken’s BWC (**Allegation K: Abuse of Authority, § 87(2)(g)**

PO Power allegedly told § 87(2)(b) “I’m going to tell everyone that you’re a snitch, and you’ll see what happens to you” (**Allegation L: Abuse of Authority, § 87(2)(g)**

§ 87(2)(b) asked all three officers for their names and shield numbers and only PO Dieken provided her information (**Allegations M, N: Abuse of Authority, § 87(2)(g)** (**Allegations O, P: Abuse of Authority, § 87(2)(g)**

PO Power failed to provide § 87(2)(b) with a business card (**Allegation Q: Abuse of Authority, § 87(2)(g)** and failed to activate his BWC for this incident (**Allegation R: Abuse of Authority, § 87(2)(g)**

§ 87(2)(b) was issued four summonses, one for each tinted window (BR 01).

The investigation is in possession of two BWC videos pertaining to this incident (BRs 02 – 04). The investigation is not in possession of additional video.

This complaint was reassigned from Investigator Julia Vittore to Investigator Carter Garfield.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Leana Dieken stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (B) Abuse of Authority: Police Officer Quratulain Chughtai stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

It is undisputed that PO Dieken and PO Chughtai pulled over § 87(2)(b) for tinted windows. § 87(2)(b) (BR 05) did not dispute having tinted windows but believed that the windows were within the legal limit for tints. He stated that he was sitting in the passenger seat with his son, § 87(2)(b) who was driving, when they passed a marked police vehicle on 6<sup>th</sup> Avenue. The police vehicle made a U-turn and used their turret lights to pull them over near the intersection of

74<sup>th</sup> Street. PO Dieken approached the driver's side of the vehicle and asked for § 87(2)(b) license and registration, explaining that they stopped them for vehicle tints. § 87(2)(b) told PO Dieken that the tints were within the legal limit and demanded a supervisor to the scene.

§ 87(2)(b) was uncooperative in providing a statement to the investigation.

PO Dieken (BR 06) testified that she and PO Chugthai pulled over § 87(2)(b) because his vehicle had excessively tinted windows. She called for an officer to bring a tint meter to the scene because § 87(2)(b) believed his windows were within the legal limit for tints. She explained how tint meters check the percentage of light that passes through a window and that vehicle windows in New York must allow at least 70 percent of light through the meter to be legal. Once PO Power arrived on scene and provided her with a tint meter, PO Dieken checked the tints of all four car-door windows and showed the meter to § 87(2)(b) showing that the windows were excessively tinted.

The investigation was able to make a determination without interviewing PO Chugthai.

In PO Dieken's BWC (BR 02), at 9:19, PO Dieken places a tint meter on the driver's window and the window behind the driver's seat. She then moves her BWC to show the reading of the first window to be 30 and the second to be 17.

The investigation obtained four summonses from this incident, all for vehicle tints (BR 01).

NYC Vehicle Traffic Law § 375 (12-a) (BR 09) states that seventy percent or more of light from the outside must pass through a vehicle window to be legal.

§ 87(2)(g)

**Allegation (C) Discourtesy: Police Officer Leana Dieken spoke discourteously to § 87(2)(b).**

This allegation derives from BWC footage.

In PO Dieken's BWC (BR 02), at 9:51, after checking the tints, PO Dieken returns to her vehicle with § 87(2)(b) license and registration. Before stepping into her vehicle, she says, "Maybe you should lose the attitude and learn to speak like an adult."

PO Dieken (BR 06) testified that she made that statement because § 87(2)(b) was behaving like a juvenile. She described § 87(2)(b) as irate and argumentative for the entirety of the incident by refusing to believe that the windows on the vehicle were tinted above the legal limit.

Patrol Guide Procedure 200-02 (BR 10) states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Police Officer Joseph Power threatened to arrest § 87(2)(b).**

**Allegation (E) Discourtesy: Police Officer Joseph Power spoke discourteously to § 87(2)(b).**

**Allegation (F) Force: Police Officer Joseph Power used physical force against § 87(2)(b).**

**Allegation (G) Force: Police Officer Joseph Power hit § 87(2)(b) against an object.**

**Allegation (H) Discourtesy: Police Officer Joseph Power acted discourteously toward § 87(2)(b).**



§ 87(2)(b) (BR 05) alleged that during the car stop he exited the vehicle to smoke a cigarette and PO Power yelled at him to “Get back in the fucking car.” He then ran up to § 87(2)(b) grabbed him by the right bicep, shoved him back into his vehicle, and slammed the car door, which hit § 87(2)(b) right arm. He did not mention PO Power threatening to arrest him.

§ 87(2)(b) was uncooperative in providing a statement to the investigation.

PO Power (BRs 07, 08) testified that he said, “Get back in the vehicle or you’re going in handcuffs,” to § 87(2)(b) because § 87(2)(b) was behaving in a disorderly manner and refusing to sit inside the vehicle, which prevented PO Dieken and PO Chughtai from preparing their summonses. He did not say, “Get back in the fucking car,” to § 87(2)(b). PO Power said that § 87(2)(b) could have been arrested for obstruction of governmental administration. PO Power denied hitting § 87(2)(b) with the door when he closed it. He stated that he closed § 87(2)(b) door to prevent § 87(2)(b) from continuing to obstruct officer’s ability to issue the vehicle summonses and to “deescalate” the situation. He added that closing the door was successful in deescalating the situation as officers were able to return to their vehicles and prepare their summonses. He was unable to recall what he said to § 87(2)(b) in the portion of PO Dieken’s BWC that does not audibly capture their conversation, specifically at 10:30.

PO Dieken (BR 06) could not recall what PO Power immediately said to § 87(2)(b) when he approached him.

The investigation was able to make a determination without interviewing PO Chughtai.

In PO Dieken’s BWC (BRs 02), at 10:05, PO Dieken and PO Chughtai step into their vehicle. At 10:17, § 87(2)(b) is seen approaching their vehicle. PO Dieken says to § 87(2)(b) over the vehicle loudspeaker, “You can wait in the car.” Immediately afterward, PO Power is heard on a loudspeaker saying, “Get back in the car or you’re going in handcuffs.” At 10:30, both PO Dieken and PO Power exit their vehicles and approach § 87(2)(b) who is now standing at the passenger door of his vehicle with the door open. PO Power approaches § 87(2)(b) and begins speaking to him, but their conversation is not audible on PO Power’s BWC. At 10:43, § 87(2)(b) is heard saying, “Don’t touch me. Don’t touch me.” PO Power is pointing to the passenger seat and telling § 87(2)(b) to get back in the car. He tells § 87(2)(b) at least five times to get back in the car. § 87(2)(b) continues arguing about the tints.

At 11:16, § 87(2)(b) steps back into the car. PO Power does not make any physical contact with him. § 87(2)(b) then reaches out with his right arm to close his door, but PO Power slams the door instead. § 87(2)(b) right arm is inside the vehicle when PO Power slams the door, but it is unclear from the video if his arm made contact with the door. PO Power begins walking away after closing the door, but § 87(2)(b) opens the door again and yells at PO Power, “Why are slamming my door like that?”

NYC Penal Law § 195.05 (BR 11) states that a person is guilty of obstruction of governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function by means of intimidation, physical force or interference. OGA is a class A misdemeanor.

BWC confirms that § 87(2)(b) exited his vehicle and approached PO Dieken and PO Chughtai’s vehicle, resulting in them having to stop preparing their summonses to direct § 87(2)(b) back to his vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

BWC footage confirms that PO Power did not grab § 87(2)(b) by the arm and shove him into his vehicle as alleged. § 87(2)(g)

§ 87(2)(g)

Patrol Guide Procedure 200-02 (BR 10) states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

While it was understandable for officers to want § 87(2)(b) to remain in his vehicle as he was argumentative and not listening to officers' explanations for the summonses, despite PO Power's account that he closed the door to "deescalate" and allow the officers to prepare the summons, § 87(2)(g)

**Allegation (I) Abuse of Authority: Police Officer Joseph Power stopped § 87(2)(b)**

**Allegation (J) Discourtesy: Police Officer Joseph Power spoke discourteously to § 87(2)(b)**

These allegations derive from BWC footage.

In PO Dieken's BWC, at 11:20, after PO Power slammed § 87(2)(b) door, § 87(2)(b) reopens the door and yells, "Why are you slamming my door like that?" PO Power walks back over to § 87(2)(b) closes the door, and says, "You are not free to leave and you are not free to get out of the car. Okay? Sit in the car and be a good boy." All three officers begin to walk away from § 87(2)(b) car; however, after PO Dieken turns (and PO Power is no longer visible on camera), PO Power and § 87(2)(b) are heard arguing again.

PO Power (BR 08) testified that he ordered § 87(2)(b) to remain in the vehicle so that PO Dieken and PO Chughtai could finish preparing their summonses. Det. Powers explained that § 87(2)(b) behavior was disorderly and erratic, specifically by getting out of the car, arguing with PO Dieken, and ignoring PO Dieken's orders to get back in his car. PO Power said § 87(2)(b) could have been arrested for obstruction of government administration. Regarding calling § 87(2)(b) a "good boy," Det. Power reiterated that he did so to deescalate the situation and to keep § 87(2)(b) in the vehicle.

In *People v. De Bour*, 40 N.Y.2d 210 (BR 12), the court ruled that an officer may forcibly stop an individual when the officer possesses reasonable suspicion that the person has committed, is committing, or is about to commit a crime.

Patrol Guide Procedure 200-02 (BR 10) states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

§ 87(2)(g)

PO Power's phrase, "be a good boy," was demeaning and served no law enforcement purpose, and despite him testifying otherwise, BWC confirms that this did not deescalate the situation. § 87(2)(g)

**Allegation (K) Abuse of Authority: Police Officer Joseph Power improperly used Police Officer Leana Dieken's body-worn camera.**

**Allegation (L) Abuse of Authority: Police Officer Joseph Power threatened § 87(2)(b) with the use of force.**

**Allegation (M) Abuse of Authority: Police Officer Joseph Power refused to provide his name to § 87(2)(b)**

**Allegation (N) Abuse of Authority: Police Officer Joseph Power refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) (BR 05) alleged that PO Power attempted to turn off PO Dieken's BWC during this incident. He also allegedly that PO Power said to him, "I'm going to make sure everybody knows you're a snitch and you'll see what happens to you." He then asked § 87(2)(b) for his name and shield number, but he refused to provide it.

§ 87(2)(b) was uncooperative in providing a statement to the investigation.

PO Power (BRs 07, 08) denied interfering with PO Dieken's BWC, calling § 87(2)(b) a "snitch" and telling him, "you'll see what happens to you," and refusing to provide his name and shield number.

PO Dieken (BR 06) did not recall PO Power interfering with her BWC, nor did she hear PO Power say, "I'm going to make sure everybody knows you're a snitch and you'll see what happens to you" to § 87(2)(b). She did not recall PO Power refusing to provide his name or shield number to § 87(2)(b).

At no point in PO Dieken's BWC (BR 02) does PO Power attempt to turn off her BWC. Neither PO Dieken's BWC nor PO Chughtai's BWC (BR 02) capture any of the aforementioned allegations. However, there are a few instances in which PO Power's conversations with § 87(2)(b) are not audible on video.

PO Dieken's BWC confirms that PO Power did not attempt to turn off her BWC during this incident. § 87(2)(g)

§ 87(2)(g)

**Allegation (O) Abuse of Authority: Police Officer Quratulain Chughtai refused to provide her name to § 87(2)(b)**

**Allegation (P) Abuse of Authority: Police Officer Quratulain Chughtai refused to provide her shield number to § 87(2)(b)**

§ 87(2)(b) (BR 05) alleged that he asked all three officers for their names and shield numbers but only PO Dieken provided it to him.

The investigation was able to make a determination without interviewing PO Chughtai.

PO Chughtai's BWC (BR 02) captures the entirety of the incident and does not capture § 87(2)(b) asking her for her name or shield number at any point during the incident.

BWC confirms that § 87(2)(b) did not ask PO Chughtai for her name or shield number. § 87(2)(g)

**Allegation (Q) Abuse of Authority: Police Officer Joseph Power failed to provide § 87(2)(b) with a business card.**

PO Power (BRs 07, 08) testified that he did not provide § 87(2)(b) with a business card because a card was not requested.

Administrative Guide 304-11 (BR 13) states that when an officer conducts a level three stop, which does not result in an arrest being made or summons being issued, then the officer must offer a business card to the person in a professional manner upon the conclusion of the law enforcement activity.

It is undisputed that PO Power stopped § 87(2)(b) to prevent him from continuing to obstruct governmental administration (as discussed above), and because PO Power did not issue § 87(2)(b) a summons or arrest him, he was required per the Administrative Guide to offer a business card. § 87(2)(g)

**Allegation (R) Abuse of Authority: Police Officer Joseph Power improperly used his body-worn camera.**

PO Power (BR 08) testified that he was assigned an administrative assignment that day which was why he did not have a BWC assigned. He added that when he responded to the scene with the tint meter, he did not bring a BWC because he did not anticipate this incident to become adversarial.

Patrol Guide 212-123 (BR 14) mandates that officers activate their BWC for numerous actions, including vehicle stops, public interactions that become adversarial, interactions with persons suspected of criminal activity, and summonses.

PO Power failed to activate his BWC as required by the Patrol Guide as he was responding to a vehicle stop. § 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB in which § 87(2)(b) has been a party (BR 15).
- PO Dieken has been a member of service for five years and has been listed as a subject in three CCRB complaints and seven allegations, none of which were substantiated.
- PO Chughtai has been a member of service for five years and has been listed as a subject in three CCRB complaints and seven allegations, two of which were substantiated.
  - 202102973 involved an allegation of obstructing a shield number and an allegation of refusal to provide name, both of which were substantiated. The Board recommended Command Discipline B and the NYPD imposed no disciplinary action for both.
  - § 87(2)(g)
- PO Power has been a member of service for nine years and has been listed as a subject in nine CCRB complaints and 26 allegations, none of which were substantiated.

**Mediation, Civil, and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- On July 31, 2023, a FOIL request for any Notice of Claims pertaining to this incident was filed with the Office of the Comptroller and will be added to the case file upon receipt (BR 16).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[REDACTED]

**RPBP History**

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.



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Squad: 16

Investigator:	<u>Carter Garfield</u>	<u>SI Garfield</u>	<u>8/10/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>08/11/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date